

103D CONGRESS  
1ST SESSION

# H. R. 3421

To amend the Congressional Budget Act of 1974 to establish a Federal mandate budget and to impose cost controls on that budget, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 1993

Mr. SMITH of Texas (for himself, Mr. KASICH, Mr. COX, Mr. FRANKS of New Jersey, Mr. BAKER of California, Mr. BALLENGER, Mr. BLUTE, Mr. BOEHNER, Mr. BURTON of Indiana, Mr. CRAPO, Mr. DICKEY, Mr. DUNCAN, Mr. GALLEGLY, Mr. GREENWOOD, Mr. HANCOCK, Mr. HANSEN, Mr. KINGSTON, Mr. LIVINGSTON, Mr. MCHUGH, Mr. PACKARD, Mr. ROHRBACHER, Mr. ROGERS, Mr. ROYCE, Mr. SOLOMON, Mr. TALENT, Mr. TORKILDSEN, and Mr. ZELIFF) introduced the following bill; which was referred jointly to the Committees on Government Operations, Rules, and the Judiciary

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## A BILL

To amend the Congressional Budget Act of 1974 to establish a Federal mandate budget and to impose cost controls on that budget, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Mandate Re-  
5 duction, Reform, and Budget Act of 1993”.

1 **SEC. 2. AMENDMENTS TO THE CONGRESSIONAL BUDGET**  
2 **ACT OF 1974.**

3 (a) FEDERAL REGULATORY BUDGET COST CONTROL  
4 SYSTEM.—Title III of the Congressional Budget Act of  
5 1974 is amended by inserting before section 300 the fol-  
6 lowing new center heading **“PART A—GENERAL**  
7 **PROVISIONS”** and by adding at the end the following  
8 new part:

9 **“PART B—FEDERAL MANDATE BUDGET COST**  
10 **CONTROL**

11 **SEC. 321. OMB-CBO REPORTS.**

12 “(a) OMB-CBO INITIAL REPORT.—Within 1 year  
13 after the date of enactment of this section, OMB and CBO  
14 shall jointly issue a report to the President and each  
15 House of Congress that contains the following:

16 “(1) For the first budget year beginning after  
17 the issuance of this report, a projection of the aggre-  
18 gate direct cost to States and local governments of  
19 complying with all Federal mandates in effect imme-  
20 diately before issuance of the report containing the  
21 projection for that budget year of the effect of cur-  
22 rent-year Federal mandates into the budget year  
23 and the outyears based on those mandates.

24 “(2) A calculation of the estimated aggregate  
25 direct cost to States and local governments of com-

1       pliance with all Federal mandates as a percentage of  
2       the gross domestic product (GDP).

3           “(3) The estimated marginal cost (measured as  
4       a reduction in estimated gross domestic product) to  
5       States and local governments of compliance with all  
6       Federal mandates in excess of the cap (to be deter-  
7       mined under paragraph (5)) allowable for the sixth  
8       year following the budget year and subsequent fiscal  
9       years.

10          “(4) The effect on the domestic economy of dif-  
11       ferent types of Federal mandates.

12          “(5) The appropriate level of personnel, admin-  
13       istrative overhead, and programmatic savings that  
14       should be achieved on a fiscal year by fiscal year  
15       basis by Federal agencies that issue mandates with  
16       direct costs to States and local governments through  
17       the reduction of such aggregate costs to States and  
18       local governments by 6.5 percent for the budget year  
19       (as measured against the aggregate mandate base-  
20       line for the first budget year to which this part ap-  
21       plies) and by 6.5 percent increments for each of the  
22       outyears (until the aggregate level of such costs does  
23       not exceed 3 percent of the estimated gross domestic  
24       product for the same fiscal year as the estimated  
25       costs that will be incurred).

1           “(6) Recommendations for budgeting, technical,  
2           and estimating changes to improve the Federal man-  
3           date budgeting process.

4           “(b) UPDATE REPORTS.—OMB and CBO shall issue  
5           update reports on September 15th of the fifth year begin-  
6           ning after issuance of the initial report and at 5-year in-  
7           tervals thereafter containing all the information required  
8           in the initial report, but based upon all Federal mandates  
9           in effect immediately before issuance of the most recent  
10          update report.

11          “(c) INITIAL BASELINE REPORT.—Within 30 days  
12          after the date of enactment of this section, OMB and CBO  
13          shall jointly issue a report to the President and each  
14          House of Congress that contains an initial aggregate man-  
15          date baseline for the first budget year that begins at least  
16          120 days after that date of enactment. That baseline will  
17          be a projection of the aggregate direct cost to States and  
18          local governments of complying with all Federal mandates  
19          in effect immediately before issuance of the report contain-  
20          ing the projection for that budget year of the effect of  
21          current-year Federal mandates into the budget year and  
22          the outyears based on those mandates.

23       **“SEC. 322. AGGREGATE MANDATE BASELINE.**

24          “(a) IN GENERAL.—For the first budget year begin-  
25          ning after the date of enactment of this section and for

1 every other fiscal year thereafter, the aggregate mandate  
2 baseline refers to a projection of the aggregate direct cost  
3 to States and local governments of complying with all Fed-  
4 eral mandates in effect immediately before issuance of the  
5 report containing the projection for that budget year of  
6 the effect of current-year Federal mandates into the budg-  
7 et year and the outyears based on those mandates. How-  
8 ever, in the case of each of the succeeding fiscal years,  
9 the baseline shall be adjusted for the estimated growth  
10 during that year in the gross domestic product (GDP).

11 “(b) OMB–CBO AGGREGATE MANDATE BASELINE  
12 REPORTS.—(1) The first budget year for which there shall  
13 be an aggregate mandate baseline shall be the budget year  
14 to which the initial OMB–CBO baseline report issued  
15 under section 321(c) pertains.

16 “(2) In the case of each budget year after the budget  
17 year referred to in paragraph (1), not later than Septem-  
18 ber 15 of the current year, OMB and CBO shall jointly  
19 issue a report containing the baseline referred to in sub-  
20 section (a) for that budget year.

21 **“SEC. 323. RECONCILIATION AND ALLOCATIONS.**

22 “(a) RECONCILIATION DIRECTIVES.—In addition to  
23 the requirements of section 310, a concurrent resolution  
24 on the budget for any fiscal year shall specify—

1           “(1) changes in laws and regulations necessary  
2           to reduce the aggregate direct cost to States and  
3           local governments of complying with all Federal  
4           mandates by 6.5 percent for the budget year (as  
5           measured against the aggregate mandate baseline  
6           for the first budget year to which this part applies)  
7           and by 6.5 percent increments for each of the out-  
8           years (until the aggregate level of such costs does  
9           not exceed 3 percent of the estimated gross domestic  
10          product for the same fiscal year as the estimated  
11          costs that will be incurred) for Federal agencies that  
12          issue mandates producing direct costs to States and  
13          local governments; and

14          “(2) changes in laws necessary to achieve re-  
15          ductions in the level of personnel and administrative  
16          overhead and to achieve programmatic savings for  
17          the budget year and the outyears for those agencies  
18          of the following:

19                 “(A) In the first outyear, one-fourth of the  
20                 percent of reduction in mandate authority from  
21                 the aggregate mandate base.

22                 “(B) In the second outyear, one-third of  
23                 the percent of reduction in mandate authority  
24                 from the aggregate mandate base.

1           “(C) In the third, fourth, fifth, and sixth  
2           years following the budget year, one-half of the  
3           percent of reduction in mandate authority from  
4           the aggregate mandate base.

5 Section 310(c) shall not apply with respect to directions  
6 made under this section.

7           “(b) ALLOCATION OF TOTALS.—(1) The Committees  
8 on the Budget of the House of Representatives and the  
9 Senate shall each allocate aggregate 2-year mandate au-  
10 thority among each committee of its House and by major  
11 functional category for the first budget year beginning  
12 after the date of enactment of this section and for the  
13 second, fourth, and sixth years following the budget year  
14 and then every other year thereafter.

15           “(2) As soon as practicable after receiving an alloca-  
16 tion under paragraph (1), each committee shall subdivide  
17 its allocation among its subcommittees or among pro-  
18 grams over which it has jurisdiction.

19           “(c) POINT OF ORDER.—(1) It shall not be in order  
20 in the House of Representatives or the Senate to consider  
21 any bill or resolution, or amendment thereto, which would  
22 cause the appropriate allocation made under subsection  
23 (b) for a fiscal year of mandate authority to be exceeded.

24           “(2) WAIVER.—The point of order set forth in para-  
25 graph (1) may only be waived by the affirmative vote of

1 at least three-fifths of the Members voting, a quorum  
2 being present.

3 “(d) DETERMINATIONS BY BUDGET COMMITTEES.—  
4 For purposes of this section, the level of mandate author-  
5 ity for a fiscal year shall be determined by the Committee  
6 on the Budget of the House of Representatives or the Sen-  
7 ate, as the case may be.

8 “(e) EXCEEDING ALLOCATION TOTALS.—Whenever  
9 any Committee of the House of Representatives exceeds  
10 its allocation of aggregate 2-year mandate authority under  
11 subsection (b)(1), any Member of the House of Represent-  
12 atives may offer a bill in the House (which shall be highly  
13 privileged, unamendable, and debateable for 30 minutes)  
14 which shall only prohibit the issuance of mandates by any  
15 agency under the jurisdiction of that committee for the  
16 fiscal years covered by that allocation until that committee  
17 eliminates its breach.

18 **“SEC. 324. ANALYSIS OF MANDATES COSTS BY CONGRES-**  
19 **SIONAL BUDGET OFFICE.**

20 “CBO shall prepare for each bill or resolution of a  
21 public character reported by any committee of the House  
22 of Representatives or the Senate (except the Committee  
23 on Appropriations of each House), and submit to such  
24 committee—



1           “(1) an estimate of the costs which would be in-  
2           curred by States and local governments in carrying  
3           out or complying with such bill or resolution in the  
4           fiscal year in which it is to become effective and in  
5           each of the 4 fiscal years following such fiscal year,  
6           together with the basis of each such estimate; and

7           “(2) a comparison of the estimate of costs de-  
8           scribed in paragraph (1) with any available esti-  
9           mates of costs made by such committee or by any  
10          Federal agency.

11   **“SEC. 325. DEFINITIONS.**

12          “As used in this part:

13           “(1) The term ‘CBO’ refers to the Director of  
14          the Congressional Budget Office.

15           “(2) The term ‘OMB’ refers to the Director of  
16          the Office of Management and Budget.

17           “(3) The term ‘costs’ when referring to ‘man-  
18          dates’ means the direct cost to States and local gov-  
19          ernments of complying with Federal mandates.

20           “(4) The term ‘direct costs’ means (recognizing  
21          that direct costs are not the only costs associated  
22          with Federal mandates) all expenditures occurring  
23          as a direct result of complying with Federal man-  
24          dates, except those applying to the military or agen-  
25          cy organization, management, and personnel.”.

1 **SEC. 3. PRESIDENT'S ANNUAL BUDGET SUBMISSIONS.**

2 Section 1105(a) of title 31, United States Code, is  
3 amended by adding at the end the following new para-  
4 graph:

5 “(29) a mandate authority budget analysis of  
6 the aggregate direct cost to States and local govern-  
7 ments of complying with all current and proposed  
8 Federal mandates and proposals for complying with  
9 section 323 of the Congressional Budget Act of  
10 1974 for the budget year and the outyears.”

11 **SEC. 4. ESTIMATION AND DISCLOSURE OF COSTS OF FED-**  
12 **ERAL MANDATES.**

13 (a) COSTS TO STATE AND LOCAL GOVERNMENTS.—  
14 Chapter 6 of title 5, United States Code, popularly known  
15 as the “Regulatory Flexibility Act”, is amended—

16 (1) by adding at the end of section 603 the fol-  
17 lowing:

18 “(d) Each initial regulatory flexibility analysis for a  
19 proposed rule that establishes or implements a new Fed-  
20 eral mandate shall also contain a description of the nature  
21 and amount of monetary costs that will be incurred by  
22 State and local governments in complying with the Federal  
23 mandate.”;

24 (2) in section 604(a)—

25 (A) in paragraph (2) by striking “and”  
26 after the semicolon;

1 (B) in paragraph (3) by striking the period  
2 and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(4) in the case of an analysis for a rule that  
5 establishes or implements a new Federal mandate, a  
6 statement of the nature and amount of monetary  
7 costs that will be incurred by State and local govern-  
8 ments in complying with the Federal mandate.”; and  
9 (3) in section 607 by inserting before the period  
10 the following: “, except that estimates of monetary  
11 costs under sections 603(d) and 604(a)(4) shall only  
12 be in the form of a numerical description”.

13 (b) AGENCY REPORTS.—Each agency that under  
14 chapter 6 of title 5, United States Code, prepares an ini-  
15 tial regulatory flexibility analysis for a proposed rule that  
16 establishes or implements a new Federal mandate shall at  
17 the same time submit to each House of Congress and to  
18 CBO and OMB a cost estimate and cost benefit analysis  
19 of any new Federal mandate that would have an aggregate  
20 direct cost to State and local governments of at least  
21 \$10,000,000 for any fiscal year.

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